THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.20419 of 2005

DATED:29.9.2005

Between:

Mohammad Azeemuddin

…Petitioner

And

The Regional Joint Director,

Municipal Administration, Warangal and others

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.20419 OF 2005

ORDER:

The petitioner's father and his uncles were joint owners and pattadars of land admeasuring Ac.14.39 gts. in S.No.208, Ac.4.13 gts. in S.No.209 in Mancherial Revenue Village of Adilabad District. There was a partition among them. According to the petitioner, the land in S.Nos.208 and 209 was allotted to petitioner's father, who approached the Mandal Revenue Officer and obtained necessary succession certificate by proceedings dt.22.12.1995. It appears, one Kothapalli Chittaranjan Das sold an extent of 311 Sq.yards in S.No.209 to the third respondent by registered sale deed, dt.7.7.1977. The third respondent filed a suit being O.S.No.628 of 2005 on the file of the Court of Junior Civil Judge, Mancherial, for perpetual injunction against petitioner and his brothers alleging that he gifted an extent of 132.33 Sq.yards in

favour of his nephew, V.Babu and also claimed the land in S.No.209. When the third respondent approached the second respondent for permission for construction of building on the disputed site, petitioner statedly filed objections, in vain. Second respondent by proceedings/order dt.16.6.2005 granted permission to third respondent to raise construction in S.No.209. The said permission is assailed in the Writ Petition.

It is no doubt true that under Section 215 of the A.P. Municipalities Act, 1965 (for short, the Act) when there is a dispute of title about the site on which building construction is sought, it is always open to the Commissioner to refuse permission to construct building under Section 215 of the Act. Second respondent did not, however, consider the objections of the petitioner, which he allegedly find even at the stage of consideration of application by third respondent for building permission. The grievance of the petitioner, therefore, cannot be lightly brushed aside. However, as there is a dispute with regard to title of land admeasuring 331 Sq.yards in S.No.209 of Mancherial and the same involves adjudication of facts, this question cannot be decided in this. Admittedly, the suit being O.S.No.628 of 2005 filed by the petitioner is pending on the file of Junior Civil Judge, Mancherial, and the petitioner can as well raise this question in the Civil Court.

Further, under Section 345(1)(c) of the Act against any order passed by the Commissioner refusing to approve the site for building, appeal would lie to the Municipal Council. In the opinion of this Court, said provision even enables the person like petitioner to approach the Municipal Council for redressal with regard to the grievance that the Commissioner granted building permission on the land belonging to the petitioner. The petitioner is given liberty to avail remedy of appeal under Section 345 of the Act. He is given two weeks time to approach the Municipal Council for filing appeal. As and when the appeal is filed, the Municipal Council shall accept the appeal, consider the same and pass appropriate orders. It is also open to the petitioner to approach the Civil Court and seek appropriate injunction against respondents 3 and 4.

The Writ Petition, without expressing any opinion on the merits of the case, is accordingly disposed of.

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(V.V.S.RAO, J)

29.9.2005

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Note:CC by 4.10.2005.

(B.O)

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